

Kaiser (C.B) vs Monroe Clinic, et al.

3:19-cv-00315

Transcript of the Testimony of:

DAVID GIBSON

March 05, 2020



03/05/2020

GIBSON, DAVID

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Page 1

1 IN THE UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF WISCONSIN

3

4 CORTNEY KAISER, Individually,)

5 and as mother and next friend)

6 of C.B., a minor,)

7 Plaintiff,)

8 vs.) No. 3:19-cv-00315

9 THE MONROE CLINIC, INC., and)

10 WISCONSIN INJURED PATIENTS)

11 AND FAMILIES COMPENSATION)

12 FUND,)

13 Defendants.)

14

15 The deposition of DAVID GIBSON, called

16 for examination, taken pursuant to the Federal

17 Rules of Civil Procedure of the United States

18 District Courts pertaining to the taking of

19 depositions, taken before KRISTIN C. BRAJKOVICH, a

20 Certified Shorthand Reporter, CSR. No. 84-3810, of

21 said state, at Suite 101, 1111 Westgate Street, Oak

22 Park, Illinois, on the 5th day of March, A.D. 2020,

23 at 9:12 a.m.

24

25

Page 2		Page 5	
1 PRESENT:		1 I N D E X	
2		2 WITNESS	EXAMINATION
3 COPLAN & CRANE,		3 DAVID GIBSON	
4 (1111 Westgate Street, Suite 101,		4 By Mr. Weir	5
5 Oak Park, Illinois 60301,		5	
6 1-708-590-4896), by:		6	
7 MR. STEPHEN M. BLECHA,		7	
8 sblecha@coplancrane.com,		8 E X H I B I T S	
9 appeared on behalf of Plaintiff;		9 NUMBER	PAGE
10		10 Gibson Deposition Exhibit	
11 LEIB KNOTT GAYNOR LLC,		11 No. 1 - Notice of Deposition	5
12 (219 North Milwaukee Street, Suite 710,		12 No. 2 - Testimony Report	5
13 Milwaukee, Wisconsin 53202,		13 No. 3 - Gibson File Review Notes	5
14 1-414-276-2102), by:		14 No. 4 - Life Care Plan	5
15 MR. BRENDEN LEIB,		15 No. 5 - Evaluatee Interview Form	5
16 bleib@lkglaw.net,		16 No. 6 - Economic Indices	5
17 appeared on behalf of Defendant		17	
18 The Monroe Clinic, Inc.;		18	
19		19	
20		20	
21		21	
22		22	
23		23	
24		24	
25		25	
1 PRESENT (Continued):	Page 3	1 (WHEREUPON, certain documents	Page 5
2		2 were marked Gibson Deposition	
3 OTJEN LAW FIRM, S.C.,		3 Exhibit Nos. 1 through 6, for	
4 (20935 Swenson Drive, Suite 310,		4 identification and the witness was	
5 Waukesha, Wisconsin 53186,		5 duly sworn.)	
6 1-262-777-2200), by:		6 DAVID GIBSON,	
7 MR. TODD M. WEIR,		7 called as a witness herein, having been first duly	
8 tweir@otjen.com,		8 sworn, was examined and testified as follows:	
9 appeared on behalf of Defendant		9 EXAMINATION	
10 Wisconsin Injured Patients and Families		10 BY MR. WEIR:	
11 Compensation Fund.		11 Q. You are David Gibson, correct?	
12		12 A. I am.	
13		13 Q. And you understand we are here for a	
14 deposition in a case called [REDACTED] CB. versus		14	
15 The Monroe Clinic?		15	
16 A. I do.		16	
17 Q. You have given many depositions before,		17	
18 right?		18	
19 A. I have.		19	
20 Q. So you understand the basic rules,		20	
21 right?		21	
22 A. Yes.		22	
23 Q. I'm going to ask you to wait until I'm		23	
24 done with my question. I, in turn, will wait until		24	
25 you are done with your answer. People tell me I		25	

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Pages 6-9

Page 6	Page 8
1 have a little bit of a habit of seeming like I'm 2 done with the question, but I am not, so let me 3 kind of spit it out. Okay?	1 A. It does. 2 Q. And a second report of November 25, 3 2019, deals with the vocational losses, correct?
4 A. Okay.	4 A. Yes.
5 Q. And the important thing is if you answer 6 a question, we are going to assume, A, that you 7 understood the question and, B, that your answer 8 was truthful and responsive. Does that sound fair?	5 Q. We have a case list, which we have 6 marked as Exhibit 2, correct?
9 A. Yes.	7 A. We do.
10 Q. You have got a CV in front of you, 11 correct?	8 Q. And that was updated actually just 9 through a month ago, right?
12 A. I do.	10 A. Yes.
13 Q. And you work for Vocational Economics, 14 Inc., out of Louisville, Kentucky, right?	11 Q. You have provided some testimony in 12 Wisconsin, correct?
15 A. Yes.	13 A. I have.
16 Q. And last I saw, they had 15 to 17 17 employees. Still the case?	14 Q. Of the cases where you have provided 15 testimony in the last five years, am I correct that 16 95 percent have been for the plaintiff?
18 A. Best estimate, yes. I can't give you an 19 exact number, but that is fair.	17 A. Yes.
20 Q. And you are a forensic economist?	18 Q. And that has actually been consistent if 19 we take it back even 10 or 15 years?
21 A. Yes.	20 A. I believe so.
22 Q. And have done exclusively forensic 23 economist work since 2011?	21 Q. Somewhere I saw your charges. I think 22 you are up to \$720 an hour for review?
24 A. Yes.	23 A. No. For the report itself, it's a flat 24 fee, so a flat fee of \$5,200 for the loss of earnings report and \$2,400 for the present value of
25 Q. How many --	
Page 7	Page 9
1 A. Exclusively, yes. Really all of the 2 work of Vocational Economics is forensic economics, 3 so I have been doing that since '93.	1 the life care plan. Then after that any 2 non-testimony time is \$520 per hour, and the \$720 3 per hour that you were referring to is for 4 testimony time.
4 Q. Okay. And how many forensic economists 5 does Vocational Economics, Inc., have?	5 Q. All right. Before we got started, I 6 gave you Exhibit 1, which is a notice of 7 deposition?
6 A. Again, I can't give you an exact number, 7 but probably people that provide either the 8 vocational side or the economic side, about 11 or 9 12.	8 A. Yes.
10 Q. Do they do services nationwide?	9 Q. And you indicated that, without casting aspersions on the gentleman seated to your right, 11 you had not seen this before?
11 A. Yes.	12 A. I don't believe that I have.
12 Q. You are paid by Vocational Economics, 13 Inc., right?	13 Q. Let's just go through this. One is the complete file?
14 A. Yes.	15 A. Yes.
15 Q. And your income is directly dependent on 16 the volume of work that you do?	16 Q. We have that, correct?
17 A. Yes.	17 A. You do.
18 Q. Exhibit 3, is this a list of all of the 19 documents which you have reviewed in this case?	18 Q. Did you consult any outside sources in conjunction with your work?
20 A. Yes.	20 A. The only sources that I cite in my reports are various statistics from the Bureau of Labor Statistics, the Census Bureau, and others.
21 Q. And you have issued two reports. One 22 dated November 21, 2019, correct?	23 Q. You took the numbers from Dr. Gary Yarkony and used them in your life care plan calculations, true?
23 A. Yes.	
24 Q. And that deals with the losses 25 associated with the life care plan, correct?	

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Pages 10–13

	Page 10	Page 12
1	A. Yes.	
2	Q. You have worked with Dr. Yarkony before,	1 the mathematics with it.
3	I assume?	2 Q. Right. You just take those numbers and
4	A. I have never really worked with him, but	3 do the economic calculations, fair?
5	I have evaluated his life care plans before, yes.	4 A. That's right.
6	Q. So "work with" is probably too broad or	5 Q. And so if there was a different life
7	maybe too specific a term. You have been involved	6 care plan with different numbers, you could plug
8	in other cases where you have been asked by	7 that in and do the calculations for that as well?
9	plaintiffs to do a life care plan and you have	8 A. I could.
10	based your calculations on Mr. Yarkony's life care	9 Q. The point is, at a trial in this matter,
11	plan, fair?	10 you are not going to be saying, Based on my years
12	A. Yes.	11 of doing this work and reviewing life care plans,
13	Q. Do you know how many times?	12 Dr. Yarkony's life care plan is a reasonable life
14	A. I don't. I would probably say that I	13 care plan?
15	see life care plans by Dr. Yarkony anywhere from	14 A. True.
16	five to eight times per year.	15 Q. Okay. Any reports. I'm on No. 2.
17	Q. And if we total up your depositions in	16 A. Yes.
18	Exhibit 2, we don't need to do the arithmetic, but	17 Q. We have those, right?
19	there's well over 100 for 2019?	18 A. We do.
20	A. Yes, yes.	19 Q. CV, we have got that?
21	Q. While we are on the topic, how often	20 A. We do.
22	have you worked with this law firm, Coplan & Crane?	21 Q. Four, the recent list, we have that?
23	Right?	22 A. Yes.
24	A. Over the last five years, I would say	23 Q. Publications, we can find that on your
25	two to five times per year.	24 CV, right?
		25 A. Exactly.
	Page 11	Page 13
1	Q. When did you first start working with	1 Q. Here is what I don't see, and maybe you
2	this firm?	2 have it, itemization of hours spent and how much
3	A. Probably around 2007, when I relocated	3 you have billed or received in this case. Do we
4	to the Chicago market from Louisville.	4 have that?
5	Q. How often have you worked with Kevin	5 A. It does not exist in terms of hours.
6	Burke, do you know?	6 The reports I bill as a flat fee. I don't track
7	A. Only two times, I believe.	7 hours until after the date of the report, so the
8	Q. From your testimony list, some of your	8 only hours that I have had so far, where I would
9	cases involve business litigation, some involve	9 track them, would be the preparation for the
10	injuries. Do you have a breakdown for the last	10 deposition.
11	five years what percentage have been business	11 Q. How many hours have we got there at the
12	litigation or non-injury or death, we are including	12 \$520 an hour?
13	in injury litigation?	13 A. Probably about an hour and a half.
14	A. I would say that approximately	14 Q. And today hopefully will be less than an
15	15 percent of the work that I do is either	15 hour and a half, I can tell you that. Okay?
16	commercial in nature or employment in nature. Then	16 Any records, charts, notes, we have
17	the other 85 would be the personal injury arena.	17 covered that, correct?
18	Q. Getting back to Dr. Yarkony. You do not	18 A. Yes.
19	vouch for his life care plan, review it, put your	19 Q. Did you make any notes separate and
20	stamp of approval on it or stamp of disapproval on	20 apart from your report regarding the life care
21	it in any way, shape, or form, fair?	21 plan, which are retrievable?
22	A. That's fair. I would state explicitly	22 A. Any notes I have will be -- did they
23	that I rely upon Dr. Yarkony to identify what is	23 turn over my file to you beforehand?
24	needed, how much it currently costs, and how	24 Q. Yes.
25	frequently it's needed. My role is merely doing	25 A. So any notes I had will be part of that

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Pages 14-17

Page 14	Page 16
1 file. With regard to the life care plan, the only 2 thing that would exist would be a document -- and I 3 printed multiple pages per side -- that looks 4 something like that, which is input verification to 5 make sure that we got Dr. Yarkony's numbers input 6 correctly.	1 provide depositions and how to be effective expert 2 witnesses?
7 Q. Let me see that.	3 A. No, I don't.
8 A. Sure. It looks very similar to the 9 detail on the report itself, but it's slightly 10 different.	4 Q. Is there any discussion about that?
11 Q. Looks similar to the charts attached to 12 your report, right?	5 A. Not with me. I am sure that somebody 6 must talk to them about it when they are brought 7 in, but nobody has asked me to do that.
13 A. It does, but it doesn't -- it has a 14 little bit more detail to it than what is attached 15 to the report.	8 Q. You have, over the years, given many 9 lectures to groups of trial attorneys, fair?
16 Q. Who makes this document that I'm going 17 to mark Exhibit 4? Who inputs this data?	10 A. I have.
18 A. What you marked includes Dr. Yarkony's 19 plan itself, but who inputs the data into our 20 spreadsheet would be one of my two assistants, most 21 likely a lady named Anne Rinke, A-n-n-e, R-i-n-k-e.	11 Q. How many times in the last five years 12 have you given lectures to groups of trial 13 attorneys?
22 Q. Okay. And Exhibit 4, again for our 23 record, is what?	14 A. In the last five years, not that many. 15 It has been quite a while since I have.
24 A. Exhibit 4 is a combination of -- the 25 first set is Dr. Yarkony's plan itself. The next	16 I guess in the last five years 17 specifically, none. The first one I see would be a 18 little more than five years ago -- I'm sorry -- 19 just barely within five years, a webinar, I believe 20 it was, on No. 71 on my CV, which would be May 8th 21 of 2015.
Page 15	
1 set is the input verification pages that I 2 mentioned, which is nine pages if they were printed 3 out full size. Then the final page is the -- a 4 copy of the U.S. life tables for males that I used 5 for the life expectancy.	1 that were submitted for that webinar?
6 Q. Okay. Let's lay that aside now and go 7 back to your CV, if we can.	2 A. I believe I would probably have a 3 PowerPoint presentation.
8 A. Sure.	4 Q. All right. So if you still have that 5 PowerPoint, I'm just going to ask you to preserve 6 it. Okay?
9 Q. We have Vocational Economics, Inc., out 10 of Louisville, 1993 to present, correct?	7 A. Sure.
11 A. Yes.	8 Q. Then we can iron out the details as to 9 whether it will be turned over to me. Okay?
12 Q. And three bullet points down it says, 13 Assess present cash value of future medical care 14 costs. That is part of what you are doing here?	10 A. Okay.
15 A. It is.	11 Q. No. 80 is, Use of ACS to improve 12 occupational earnings estimate. ACS, again remind 13 me what that is?
16 Q. The next bullet point is, Consult with 17 and train experts in vocational and economic 18 analysis. What is that work?	14 A. That is the American Community Survey.
19 A. That is working with other experts 20 within Vocational Economics and is -- needed either 21 training them on the statistics that we employ, the 22 type of work that we do, or consulting with them as 23 they come up with nuances in the cases that they 24 are analyzing.	15 Q. And 69, I thought that is what it was, 16 but 69 says, Use of disability data from American 17 Community Survey, so that follows on that, correct?
25 Q. Do you train these individuals on how to	18 A. It does.
	19 Q. 65 is, Loss of lifetime earnings from 20 brain injury presentation to Illinois and Indiana 21 continuing legal education. Do you still have a 22 PowerPoint from that?
	23 A. I should, yes.
	24 Q. Okay. I'm going to ask you to preserve 25 that too. Okay?

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Pages 18–21

	Page 18	Page 20
1	A. Okay.	
2	Q. 64 is, Economic damages in cases of	
3	catastrophic or total disability, Illinois and	
4	Indiana continuing legal education. Same issue,	
5	you probably still have a PowerPoint?	
6	A. Yes.	
7	Q. And you are willing to preserve it so we	
8	can work out the data of me obtaining it or not	
9	obtaining it. Okay?	
10	A. Okay.	
11	Q. 53 is, Proving economic loss, winning	
12	civil cases with expert testimony, Plymouth,	
13	Michigan, State Bar of Michigan. I assume you	
14	still have a PowerPoint for that one?	
15	A. Yes.	
16	Q. And I'm going to ask you to keep that as	
17	well. Fair?	
18	A. Yes.	
19	Q. You'll do that. All of the way back to	
20	2000, No. 15, Defining economic damages in medical	
21	malpractice cases, presentation and meeting for	
22	Wilson Elser, a New York law firm?	
23	A. Yes.	
24	Q. Do you know if you have materials from	
25	that?	
	Page 19	
1	A. That one I'm not sure about.	
2	Q. We may be stretching it.	
3	A. Yeah. It's quite possible that I do,	
4	but I can't say for sure.	
5	Q. Let's go in terms of any notes. Are the	
6	only notes that you have not associated with your	
7	report that you have generated retrievable?	
8	A. I would say that the notes that I have	
9	would be the combination of what is in Exhibit 4,	
10	what is in Exhibit 3, then my interview notes.	
11	Q. And we have marked your interview notes	
12	as 5, right?	
13	A. Yes.	
14	Q. And what have you got now?	
15	A. This would be a document that you should	
16	have received, but it's essentially the tabs from	
17	my Microsoft Excel workbook that contain statistics	
18	that I employed and background computations.	
19	Q. All right. I have marked this document,	
20	the background computations, as 6, correct?	
21	A. Yes.	
22	Q. All right. So if we work off of your	
23	November 21, 2019, report.	
24	A. Okay.	
25	Q. And we have various categories, correct?	
	Page 21	
1	Q. That is how you reduce it down and input	
2	it?	
3	A. No. Actually, on my computer, I have it	
4	full size, but to save my back when I print it out	
5	to bring to the deposition, I print multiple sides	
6	per page.	
7	Q. I'm relying on you to put 4 back	
8	together. Okay?	
9	A. I will.	
10	Q. So here is the page of Yarkony's report	
11	from which you got the information on Exhibit 4,	
12	fair?	
13	A. It is.	
14	Q. Okay. So we have, RN/LPN, right?	
15	A. Yes.	
16	Q. And his rates vary. Where on your	
17	page 10 do we see the spread and the picking of	
18	which rate higher, lower?	
19	A. So note that on -- for that first group,	
20	he is covered until age 12. Then within age 12, he	
21	has two different providers that cover school days,	
22	and note that the first provider of the repeat	
23	medical has a range of 36,630 to 44,030 per year.	
24	The second provider has exactly 38,480, which is	
25	within that range in the first group.	

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Pages 22-25

Page 22	Page 24
1 So what you see on page 10 of my report 2 is the quantification of that first group of 36,000 3 to 44,000 under the annual cost column, if I could 4 just point it out.	1 Q. And this comes from CPI? 2 A. It does. 3 Q. Your investment vehicle, is it still 4 90-day T-bills?
5 Q. Sure.	5 A. Right. That is the very last row there, 6 where I'm showing that the long-term would be 7 4.7 percent nominal or 1 percent real. So 8 comparing the 1.1 percent growth for professional 9 services to the 1 percent interest is what gives me 10 that pure offset, saying that is 0 percent.
6 A. So that will correspond with that. And 7 then I'm saying that extending that out for the 8 number of years, nine years until he's age 12, 9 would give you what the current cost is and the 10 present value because this would qualify as a 11 professional service, would be a pure offset in 12 terms of the net present value that would be the 13 same present value as current cost.	11 Q. You lost me here. Which column on 1E do 12 I have?
14 Q. Okay. So if we take the first item to 15 age 12, 36,630, is the present value that 16 corresponds with that 36,630 the 329,670?	13 A. I'm sorry. So comparing this number -- 14 Q. Gotcha. It's the bottom? 15 A. Yes, it is.
17 A. Yes.	16 Q. All right. With the stock market being 17 the way it is, it's probably the wrong time for me 18 to bring this point to your attention?
18 Q. And then is the \$44,030, does the 19 present value number that corresponds if you take 20 that and make the calculation from 44,030, 396,270?	19 A. Actually so, but go ahead.
21 A. It is.	20 Q. You know what this is, Stocks, Bonds, 21 Bills, and Inflation by Ibbotson, I-b-b-o-t-s-o-n?
22 Q. And that is true throughout your report?	22 A. You are doing very well. Most attorneys 23 call it Ibbotson. You pronounced it correctly.
23 A. It is.	24 Q. And you agree that this book is market 25 quotations and tabulations generally used and
Page 23	Page 25
1 answers would be the same? 2 A. The only variance is that the net 3 discount rate that I apply will be different, but 4 the lion's share of the costs under Dr. Yarkony's 5 plan falls under professional services where the 6 net discount rate is zero.	1 relied upon by forensic economists like you, if you 2 want to track at least what the data is? 3 A. Yes, if you want to track investment 4 data.
7 Q. And why is the net discount rate for 8 what we have got in your report as assistance at 9 home zero?	5 Q. Right. And inflation data? 6 A. Yes. 7 Q. And it's reliable and used by forensic 8 economists like you?
10 A. There I would note back on page 3 of my 11 report -- I'll let you get there.	9 A. Well, no, I won't say that. To do the 10 work that I'm doing here, it really does not apply 11 that much.
12 Q. Yep.	12 Q. Because you don't use large corporate 13 stocks or large corporate bonds or small corporate 14 stocks as an investment vehicle?
13 A. On page 3, I show the long-term 14 inflation rates for various medical -- categories 15 of the Consumer Price Index. The one that covers 16 the services that we just looked at would be the 17 one that has 1E over in the left-hand column, 18 Professional Services.	15 A. That's right.
19 And their note, following that over to 20 the first number column, shows that long-term, the 21 last 60 years, that has averaged 4.8 percent in 22 nominal terms, backing out of the general rate of 23 inflation. The next row down shows that that would 24 be essentially 1.1 percent above the rate of 25 inflation.	16 Q. But if someone was to use those 17 investment vehicles, Ibbotson's is a reliable 18 source to find out and track how those investment 19 vehicles have performed?
	20 A. Yes.
	21 Q. And for any 20-year period, all of the 22 way back to The Depression, when you take a whole 23 20-year period, stocks have outperformed the 90-day 24 T-bill by a substantial amount?
	25 A. Yes.

<p style="text-align: right;">Page 26</p> <p>1 Q. But you have lectured and testified 2 before that you don't want to use that as an 3 investment vehicle because you want a, quote, No 4 risk investment vehicle under circumstances like 5 this, when you have life care plans for medical 6 needs?</p> <p>7 A. Yes.</p> <p>8 Q. And that has consistently been your 9 opinion?</p> <p>10 A. It is.</p> <p>11 Q. Some forensic economists disagree?</p> <p>12 A. Some.</p> <p>13 Q. And reasonable forensic economists can 14 disagree on what investment vehicles should be 15 used, fair?</p> <p>16 A. Fair.</p> <p>17 Q. So you did the November 21, 2019, 18 report, right?</p> <p>19 A. Yes.</p> <p>20 Q. With the assistance of people who their 21 involvement was limited to inputting the data?</p> <p>22 A. Yes.</p> <p>23 Q. And then I assume you have got a 24 computer program that allows you to use your 25 present value number and outcome the present value</p>	<p style="text-align: right;">Page 28</p> <p>1 A. That's correct. Actually, I do. 2 Q. In different ways?</p> <p>3 A. My overall compensation depends on the 4 expenses of our office, and she's an expense.</p> <p>5 Q. How many people are in your Chicago 6 office?</p> <p>7 A. Just myself and the two people I have 8 mentioned, Maggie, who is a full-time employee, and 9 Anne, who is part-time.</p> <p>10 Q. All right. So all of these pages, all 11 of the way through page 49 of this vocational 12 report, are those generated essentially for any 13 vocational loss case that you do?</p> <p>14 A. I'm not sure the way that you are asking 15 that. I would say, first of all, that pages 6 16 through 43 are boilerplate pages that would include 17 any disability analysis of lost earnings. Then the 18 other pages are similar to what I prepare for any 19 similar case, but they are specific to [REDACTED] CB.</p> <p>20 Q. Okay. That is right. That is actually 21 what I meant to say.</p> <p>22 A. Okay.</p> <p>23 Q. Only the first five pages of your 24 November 25, 2019, are specific to young [REDACTED] CB.</p> <p>25 A. The first five and then the last six,</p>
<p style="text-align: right;">Page 27</p> <p>1 of future losses?</p> <p>2 A. Correct.</p> <p>3 Q. Let's go to the November 25, 2019, 4 report.</p> <p>5 A. Okay.</p> <p>6 Q. This is signed by you, correct?</p> <p>7 A. It is.</p> <p>8 Q. Who did the vocational evaluation?</p> <p>9 A. I did the evaluation as far as 10 determining what my opinions were and how I was 11 going to analyze the case. In the back of 12 Exhibit 5, I would have laid out how I'm doing. 13 There's pages there called evaluatee -- I'm sorry. 14 I'm on the wrong page.</p> <p>15 They start a couple pages from the end 16 that are called analysis parameters. That is where 17 I lay out how I'm going to do my analysis in the 18 case. Then my case manager, who is also my wife, 19 Margaret Gibson, would set up a spreadsheet to 20 match these parameters.</p> <p>21 Q. Is she an employee of Vocational Economics, Inc.?</p> <p>22 A. She is.</p> <p>23 Q. At least you don't have to pay her out of your cut?</p>	<p style="text-align: right;">Page 29</p> <p>1 those are the detailed computations.</p> <p>2 Q. The last six are the tables specific to 3 [REDACTED] CB.</p> <p>4 A. That's right.</p> <p>5 Q. But pages 6 through 43 are boilerplate 6 used in any vocational economic report?</p> <p>7 A. Concerning disability, that's right.</p> <p>8 Q. And when were the pages 6 through 43 put 9 together?</p> <p>10 A. The original version probably put 11 together mid-'90s, but you'll note that there's a 12 date on the bottom of these that indicates the most 13 recent revision was May of 2019.</p> <p>14 Q. Who puts together pages 6 through 43?</p> <p>15 A. I have had a major role in every 16 revision. The updates that are done to it nowadays 17 are done by me and another expert at Vocational 18 Economics that will review what new research has 19 come out and include that in the citations as well 20 as updating the economic statistics that show on 21 one of the pages here.</p> <p>22 Q. So pages 6 through 43 are a Vocational Economics generated product?</p> <p>23 A. Yes.</p> <p>24 Q. With you having some input?</p>

	Page 30		Page 32
1	A. Yes.	1	nationwide data because I don't know where they are
2	Q. How many others have input?	2	going to reside as an adult. There's a footnote on
3	A. Over the years, considering it as a	3	a prior page that talks about the differences.
4	cumulative document, there's probably about 12 or	4	Q. All right. You did not have any
5	13 people that have had some input. I have had a	5	specific Wisconsin data for young [CB] to make
6	major input into every version.	6	these projections, fair?
7	Q. And if we go to page 5 of 49, it appears	7	A. I did have the data. I did not use it.
8	what you have done is for the losses, you have	8	Footnote No. 3 on page 3 notes that had I used data
9	taken three potential circumstances in totality,	9	specific to the Freeport, Illinois, area, that the
10	recognizing we can't roll the clock back and	10	earnings would have been slightly higher for the
11	predict the future with young [CB].	11	first two scenarios and slightly lower for the
12	A. True.	12	third.
13	Q. So you have taken high school diploma as	13	Q. Okay. I misspoke. I forgot. He lives
14	one, right?	14	just south of the border in Illinois?
15	A. Yes.	15	A. Right.
16	Q. And the loss there, you have indicated	16	Q. Let's go back to the November 21st
17	at \$2,039,723 in present value?	17	report.
18	A. Yes.	18	A. Okay.
19	Q. And then we have some college education	19	Q. And I think the answer is on Table 1.
20	but no degree, correct?	20	For example, when we take medications, where does
21	A. Yes.	21	that fit in?
22	Q. How do you define "some college	22	A. That is under the medical commodities
23	education with no degree"?	23	row, which is 1D.
24	A. Technically, one semester of college	24	Q. Okay. Disposable supplies?
25	would qualify, and that goes up to 12 years of	25	A. Also the same row.
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1	school but no diploma. They are all fairly	1	Q. Future feeding supplies, same?
2	consistent in what their earnings are.	2	A. Yes.
3	Q. All right. We have the earnings. We	3	Q. Durable medical equipment?
4	don't need to put them in the record. They are on	4	A. Same.
5	page 5 of 49?	5	Q. Additional medical care, back to 1E?
6	A. True.	6	A. I believe so. Let me go to that. It
7	Q. What source material did you use to get	7	could vary, depending on what he has got in there,
8	the income for, for example, high school diploma?	8	but I believe you are right. Yes, you are right.
9	A. The income depends upon how much and how	9	Q. Therapy until 21, back to 1E?
10	long. The "how much" means how much he's making	10	A. Yes. I'm sorry. If I could back up to
11	per year. That I'm relying upon the American	11	the additional medical care that I actually put
12	Community Survey that shows me on an age-by-age	12	under 1B for medical services because there's some
13	basis, how much I would expect somebody of that	13	testing and other labs in there that would be a
14	level of education to earn.	14	little bit different than the professional
15	Secondly, the "how long" on computing,	15	services.
16	by combining the likelihood that [CB] would be	16	Q. Okay. So the answer as to the discount
17	alive at each age and the likelihood that he would	17	rate for each of the services outlined by
18	be employed if he is alive. The likelihood of life	18	Dr. Yarkony is found in Table 1?
19	I'm getting from the U.S. life tables. The	19	A. Yes.
20	likelihood of employment also comes from the	20	Q. What is page 4 of 14?
21	American Community Survey.	21	A. That takes the opinions I had from
22	Q. Is the American Community Survey	22	Table 1 that we just looked at, looks at that
23	nationwide data?	23	long-term average inflation rate, which shows up
24	A. It is, and there's also community-wide.	24	under the growth column, and compares it to the
25	However, that said, for a child, I always use	25	long-term interest rate on the 91-day Treasury

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1 bill, then shows you what either the net discount 2 or the net growth rate would be for each of those 3 categories.	1 A. Let's see here. This is part of my 2 discussion of present value and more specifically 3 discount rates that I think you are probably 4 referring to the Figure 4 there?
4 Q. When you do your calculations and input 5 an inflation rate, what period of time are you 6 using as your average for inflation? How many 7 years back do you capture?	5 Q. Yes. 6 A. Which shows the various inflation and 7 discount rates from multiple different time frames 8 that you might look at. Once again, I'm using a 9 60-year period.
8 A. 60. 9 Q. 60. Okay. Our current rate of 10 inflation is what? 11 A. Very low, about 2 to 3 percent. 12 Q. And for your investment vehicle, how 13 many years back do you go to capture the average 14 rate for the 90-day T-bills? 15 A. I do 60 years for everything. 16 Q. 60? 17 A. Yes, sir. 18 Q. What is 5 of 14? 19 A. This is the first category in 20 Dr. Yarkony's plan for medications, all of which 21 are covered under the medical commodity rate, 22 breaking them out by the medication specified. 23 Q. You have not taken into account the 24 possibility or probability that third-party payers 25 would pay any of these amounts, fair?	10 Q. So, for example, if we used an inflation 11 rate of ten years, it would be half of your 12 60 years? 13 A. Yes, but the net discount rate would be 14 considerably lower, and I would increase the losses 15 significantly. 16 Q. Okay. Because where do we see net 17 discount rate on Figure 4, or is that elsewhere? 18 A. It does not show you the net, but it 19 shows the discount rate, which is a 91-day Treasury 20 bill, which you would then compare to the 21 compensation growth rate. So the net discount 22 would actually be a growth of 1.8 percent. 23 Q. Do you use the Rule of 72s as a forensic 24 economist? 25 A. I don't use it. I compute exact present
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1 A. That's fair. 2 Q. Page 6. I mean, it's obvious, I think, 3 disposable supplies, right? 4 A. Yes. 5 Q. So let me just go through this and see 6 if I have any questions. You have broken out each 7 category, and each category gets its own page, 8 fair? 9 A. Yes. 10 Q. And the overwhelmingly significant 11 number is the assistance at home, page 10 of 14? 12 A. Definitely. 13 Q. How often are you repurchasing a 14 wheelchair accessible van? Five years is it? 15 A. I believe so. That is back -- 16 Q. From Yarkony? 17 A. Yeah. 18 Q. You did not do any independent analysis 19 to see if a vehicle -- wheelchair accessible 20 vehicle purchased January 1st of 2021 will last ten 21 years, 20 years, two years or anything? You just 22 took Yarkony's five years and plugged it in? 23 A. That's right. 24 Q. What is page 30 of 49? It's back to the 25 Volk report?	1 value, but I recognize what it is. 2 Q. Why don't you articulate for us what the 3 Rule of 72s is. 4 A. That if you combine an interest rate 5 stated as a whole number with the number of years 6 that a value is spread or that it grows, that it 7 will double when the -- when you multiply the years 8 by the rate. So to say it more clearly, let's say 9 that you have a 6 percent interest rate. It would 10 essentially say that you need 12 years of investing 11 in an amount before it doubles. 12 Q. A 10 percent interest rate will double 13 in 7.2 years, right? 14 A. Yes. 15 Q. And on and on and on we could go. 16 You have not taught economics outside of 17 trying to teach lawyers economics? 18 A. Outside -- I won't say just lawyers but 19 economists also. Not outside of the seminars and 20 presentations, no formal teaching. 21 Q. You have never been employed by a 22 university, for example? 23 A. That's right. 24 Q. Or even for that matter, and I'm not 25 trying to belittle you, a high school or any

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1 teaching of economics?	1 STATE OF ILLINOIS)
2 A. That's true.	2) SS:
3 Q. Did you discuss this life care plan with	3 COUNTY OF C O O K)
4 Dr. Yarkony?	4 I, KRISTIN C. BRAJKOVICH, a Certified
5 A. No.	5 Shorthand Reporter of said state, do hereby
6 Q. And life care planning is not your area	6 certify:
7 of expertise?	7 That previous to the commencement of the
8 A. That's correct.	8 examination of the witness, the witness was duly
9 Q. And if we take a look at your report and	9 sworn to testify the whole truth concerning the
10 combine it with our discussion today, do we have	10 matters herein;
11 all of your opinions in this matter?	11 That the foregoing deposition transcript
12 A. I believe so.	12 was reported stenographically by me,
13 Q. You can't think of any that you did not	13 was thereafter reduced to typewriting under my
14 include in your report or that you did not ferret	14 personal direction and constitutes a true record
15 out based on our detailed grilling this morning?	15 of the testimony given and the proceedings had;
16 A. That's correct.	16 That the said deposition was taken
17 Q. Then I'm going to turn you over to	17 before me at the time and place specified;
18 Mr. Leib here, who probably has several hours of	18 That I am not a relative or employee
19 questions for you.	19 or attorney or counsel, nor a relative or
20 MR. LEIB: Unfortunately, I have no questions.	20 employee of such attorney or counsel for any of
21 MR. BLECHA: I have several hours of	21 the parties hereto, nor interested directly or
22 questions. No, we are done.	22 indirectly in the outcome of this action.
23 THE REPORTER: Signature?	23 IN WITNESS WHEREOF, I do hereunto set my
24 THE WITNESS: Does Wisconsin have where I need	24 hand and affix my seal of office at Chicago,
25 to waive or reserve?	25 Illinois, this 20th day of March 2020.
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1 MR. WEIR: He can take care of that. I think	1
2 you either need to read it or you need to say that	2
3 you are waiving it and relying on this lady to get	3
4 it right, which she probably will, but that is your	4
5 choice.	5
6 THE WITNESS: I will waive.	6 C.S.R. Certificate No. 84-3810.
7 FURTHER DEPONENT SAITH NOT.	7
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